

**Minutes of Board of Adjustment Meeting
held Tuesday, April 2, 2013, at 7:00 P.M.,
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order by Chairman Loretta.

Roll Call

Tom Buck, Vice-Chairman
Josh Corey *Absent*
Bobby Jolley
Joseph Loretta, Chairman
John Moreland

Alternates:

Mike Gallimore *Absent*
Sylvia Osewalt

Purpose and Ex-Parte Statement

Mr. Loretta read the following statement into the record:

“These variance applications are before the Board of Adjustment for public hearing and consideration. A variance is an approved deviation from the terms of the LDC that will not be contrary to the public interest when owing to special circumstances or conditions where the literal enforcement of the provisions of the LDC would result in undue and unnecessary hardship.

Under the laws of the State of Florida, a public hearing for a zoning variance application is handled as a “quasi-judicial” proceeding. A quasi-judicial proceeding means that the decision-making group is functioning in a manner similar to a court with the voting members sitting as impartial decision makers hearing testimony and questioning presenters, who are to provide substantial and competent evidence to support their side of the issue under consideration. It is the duty of the Board of Adjustment to arrive at sound decisions. This includes receiving citizen input regarding the effect of the variance on the neighborhood, especially where the input is fact-based and not a simple expression of opinion.

It is the applicant’s burden to demonstrate that their application is consistent with the Land Development Code and Comprehensive Plan. If the applicant is successful in showing consistence, then it is up to the Board of Adjustment to produce competent, substantial evidence of record to the contrary, if the application is to be denied. The Board of Adjustment’s decision on a variance application is to be based on the criteria contained in Section 34-286 of the Land Development Code. Each member of the Board of Adjustment has been provided a copy of the criteria. In addition, the Board of Adjustment has received a copy of the application being presented.”

“Before opening the meeting and requesting a motion on any of the applications before us this evening, beginning with myself, each of the members is requested to indicate for the record both the names of

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the persons and the substance of any ex-parte communications regarding any of the applications. An ex-parte communication refers to any meeting or discussion with person or citizen who may have an interest in this decision, which occurred outside of public hearing process.”

Mr. Moreland and Mr. Loretta both stated that they had conversations with the applicant, Dina DeMarco, regarding BOA #13-100041.

Approval of Minutes

There were no minutes to approve.

Correspondence

There was no correspondence.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

(A) Case Number: BOA 13-100037

Name of Applicant: Scott Lewis

Property Address: 3625 Ocean Drive South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a northerly side yard of 6.9 feet in lieu of 10 feet required, and for 78% lot coverage in lieu of 35% maximum to allow for improvements and to ratify existing non-conformities for a single family dwelling.

Applicant:

The applicant, Scott Lewis, 3625 Ocean Drive South, wanted to point out two important factors for the variance request. The first being that this variance will ratify an existing non-conformity. The second being that the house was built in the 1950's with only 2000 square feet and with very minimal storage areas. With the increased lot coverage requested, the side yard house line will now line up with the existing house line.

Mr. Buck asked Mr. Hays what the existing lot coverage is.

Mr. Hays responded that the lot coverage exists at 77.5% lot coverage.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

Seeing no one who wished to address the Board, Mr. Loretta closed the public hearing.

There was a brief discussion about the 1% lot coverage increase being very minimal. However, with the applicant's own testimony that the increase to the lot coverage is not a necessity, Mr. Moreland wished to amend the motion to ratify the existing non-conformity and the northerly side yard only.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for a northerly side yard of 6.9 feet in lieu of 10 feet required, to allow for improvements and to ratify existing non-conformities for a single family dwelling.

Roll call vote: Ayes – Buck, Moreland, Jolley, Loretta, and Osewalt
Amended motion passed unanimously.

(B) Case Number: BOA 13-10039

Name of Applicant: Dennis and Barbara Deckard

Property Address: 522 10th Avenue South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 43% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling.

Applicant:

The applicant, Dennis & Barbara Deckard, stated that they had a pool built and were unaware they needed a permit for the paver decking. Mr. Decker reported to the Board that the lot size is 6,250 square feet.

Mr. Loretta asked how many square feet the pool decking will be.

Mr. Deckard replied 575 square feet.

Mr. Buck asked the applicant if this was the least amount of decking needed to complete the project.

Mr. Deckard replied that the lot is fairly narrow but could live with a slightly decreased amount of decking, if needed.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following person spoke in opposition to the application:

Tony Commeretti, 533 11th Avenue South, Jacksonville Beach.

Seeing no one else who wished to address the Board, Mr. Loretta closed the public hearing.

Discussion:

A brief discussion ensued and the Board concurred that the applicant needs to have a pool deck. The Board discussed amending the motion to include an acceptable drainage plan to accompany the lot coverage request.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Ms. Osewalt, to approve a request for 43.5% lot coverage in lieu of 35% maximum to allow for improvements to a single family dwelling with an acceptable drainage plan.

Roll call vote: Ayes – Buck, Moreland, Jolley, Osewalt
Nays – Loretta
Amended Motion carried with a 4 to 1 vote.

(C) Case Number: BOA 13-100041

Name of Applicant: Jeff and Dina DeMarco

Property Address: 1197 24th Street North

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 44% lot coverage in lieu of 35% maximum to allow for a pool deck addition to a single family dwelling.

Applicant:

The applicant, Jeff & Deina DeMarco, stated they are requesting additional lot coverage for pool decking and were unaware of the permit requirements. Mr. DeMarco reported that his lot is ,5000 square feet in size.

Mr. Loretta asked the applicant if the pool has already been built.

Mr. Demarco replied yes.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following person spoke in opposition to the application:

Lucille Pendleton, 1144 24th Street North, Jacksonville Beach.

Seeing no one else who wished to address the Board, Mr. Loretta closed the public hearing.

Discussion:

There was a brief discussion about the lot being substandard, therefore creating a hardship for the applicants.

Roll call vote: Ayes – Buck, Moreland, Jolley, Loretta
Nays – Osewalt
Motion carried with a 4 to 1 vote.

(D) Case Number: BOA 13-100044

Name of Applicant: Doug Dyson

Property Address: 4134 Ponce de Leon Blvd.

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for 51% lot coverage in lieu of 47% maximum to allow for a swimming pool addition.

Applicant:

The agent for the applicant, Tim Shea, 4021 Ponte Vedra Blvd., stated that he was representing Mr. Dyson. The applicant would like to have a pool deck and pavers for their home in the Avalon Subdivision. Mr. Shea pointed out to the Board that the lot is substandard in size for the RS-1 zoning.

Mr. Loretta asked Mr. Shea if this lot was included in the first Blanket Approval for the Avalon Subdivision.

Mr. Shea responded yes.

Mr. Buck asked Mr. Shea if the pool will be screened.

Mr. Shea responded no.

Mr. Moreland asked Mr. Shea if the pool had been built.

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Mr. Shea responded no.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

Seeing no one who wished to address the Board, Mr. Loretta closed the public hearing.

Discussion:

There was a discussion about the lot already having a 47% lot coverage that was included with the Avalon Neighborhood application BOA #11-100086 and messaged to the applicant that any requests in the future for additional lot coverage would not likely be granted due to the lot coverage being increased to 47% in BOA #11-100086. However, Mr. Moreland offered to amend the motion for lot coverage of 49.5%.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Buck, to approve a request for 49.5% lot coverage in lieu of 47% maximum to allow for a swimming pool addition.

Roll call vote: Ayes – Jolley
Nays – Buck, Moreland, Loretta, Osewalt
Amended motion denied with a 4 to 1 vote.

With the amended motion denied, the original motion was voted on.

Roll call vote: Nays – Buck, Moreland, Jolley, Loretta, Osewalt
Motion denied unanimously.

(E) Case Number: BOA 13-100045

Name of Applicant: Jason Huntley

Property Address: 460 33rd Avenue South

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for side yards of 7.5 feet in lieu of 10 feet required, and for 45% lot coverage in lieu of 35% maximum to allow for a new single family dwelling and swimming pool.

Applicant:

The applicant, Jason Huntley, 5922 Wingside Drive, Atlantic Beach, stated that the lot is substandard in size for RS-1 zoning. The lot coverage variance that is requested will include both the home and the pool deck.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

The following people spoke in favor to the application:

Sonny Smith, Jacksonville Beach

Seeing no one else who wished to address the Board, Mr. Loretta closed the public hearing.

Discussion:

Mr. Moreland stated that he likes the fact that the applicant is asking for the lot coverage for both the single family dwelling, the pool, and the pool decking at one time prior to the construction. However, Mr. Moreland did wish to amend the motion to include the verbiage “as shown and submitted”.

Amended Motion: An amended motion was made by Mr. Moreland, seconded by Mr. Buck, to approve a request for side yards of 7.5 feet in lieu of 10 feet required and for 45% lot coverage in lieu of 35% maximum to allow for a new single family dwelling and swimming pool, as shown and discussed.

Roll call vote: Ayes – Buck, Moreland, Jolley, Loretta, Osewalt.
Amended motion carried unanimously.

(F) Case Number: BOA 13-100046

Name of Applicant: Romono Sue Ross Gause

Property Address: 1211 19th Street North

Motion to Approve: It was moved by Mr. Buck, seconded by Mr. Jolley, to approve a request for a front yard of 5 feet in lieu of 20 feet required to allow for improvements to a single family dwelling.

Applicant:

The applicant, Wayne Gause, stated that his request for a variance stems from the lack of storage space on his property. If the variance request is approved, he wants to construct a 20 X 20 carport to protect his vehicles from falling limbs.

Mr. Moreland reported that during his site viewing, he saw that there was a nice line of vision for the homes on the street. If the variance was approved, the carport would ruin the line of vision.

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Ms. Osewalt asked the applicant if he had considered any alternative solutions.

Mr. Moreland asked the applicant if he considered removing the trees in his yard so that he could construct the carport on a different location on his property.

Mr. Gause replied that he was under the impression that he was not allowed to remove any trees due to the Tree Ordinance.

Public Hearing:

Mr. Loretta opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

Seeing no one who wished to address the Board, Mr. Loretta closed the public hearing.

Discussion:

There was a very brief discussion about the location of the proposed carport not fitting in with the surrounding neighborhood site line. Also, it was suggested that the applicant investigate whether he would be allowed to remove the trees in accordance with the Tree Ordinance.

Roll call vote: Nays – Buck, Moreland, Jolley, Loretta, Osewalt
Motion denied unanimously.

Building Department Report: The next scheduled meeting is Tuesday, April 16, 2013.
There are currently three (3) scheduled cases.

Adjournment

There being no further business coming before the Board, Mr. Loretta adjourned the meeting at 8:15 P.M.

Submitted by: Amber Maria Lehman
Senior Secretary

Approval:

/s/Joseph Loretta
Chairman

Date: May 7, 2013